

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARCEL D. FORD,

Plaintiff,

v.

KERN VALLEY STATE PRISON, et al.,

Defendants.

No. 1:23-cv-01603 GSA (PC)

ORDER DENYING PLAINTIFF'S MOTION
TO PROCEED WITH DECEMBER 2023
PRISON TRUST ACCOUNT STATEMENT

(ECF No. 11)

ORDER DIRECTING PLAINTIFF TO FILE
IN FORMA PAUPERIS APPLICATION OR
PAY FILING FEE

ORDER GRANTING PLAINTIFF'S SECOND
REQUEST FOR EXTENSION OF TIME TO
FILE SIX-MONTH PRISON TRUST FUND
ACCOUNT STATEMENT

(ECF No. 12)

PLAINTIFF'S IN FORMA PAUPERIS
APPLICATION AND SIX-MONTH PRISON
TRUST FUND ACCOUNT STATEMENT
DUE **APRIL 19, 2024**

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

Before this Court are: (1) Plaintiff's motion to proceed on a six-month prison trust fund account statement purportedly from December 18, 2023 (ECF No. 11), and (2) Plaintiff's motion

1 for an extension of time to file his six-month prison trust fund account statement (ECF No. 12).
2 This is the second time Plaintiff has asked for an extension of time to file documents related to his
3 in forma pauperis application. See ECF No. 9 (Plaintiff's request for a fourteen-day extension of
4 time to file same).

5 For the reasons stated below, Plaintiff's motion to proceed in this case with his December
6 2023 trust account statement will be denied. However, his motion for a thirty-day extension of
7 time to file the six-month statement will be granted. He will be ordered for a second time to
8 complete and return the in forma pauperis application form.

9 I. BACKGROUND

10 In November 2023, Plaintiff was ordered to submit an in forma pauperis application. ECF
11 No. 3. At that time, he was given forty-five days to do so. See id. at 1. Thereafter, in February
12 2024, because Plaintiff had failed to file the application, the Court ordered him to show cause
13 why the matter should not be dismissed. ECF No. 7.

14 In late February 2024, Plaintiff filed a request for an extension of time to file his in forma
15 pauperis application, which was granted. ECF Nos. 9, 10¹ (respectively). Plaintiff's application
16 was due March 13, 2024. ECF No. 10 at 1.

17 On March 11, 2024, Plaintiff's motion to proceed on the December 2023 trust fund
18 account statement was docketed. ECF No. 11. His motion for a thirty-day extension of time was
19 docketed on March 13, 2024. ECF No. 12.

20 II. MOTION TO PROCEED WITH DECEMBER 2023 TRUST STATEMENT

21 Plaintiff's motion to proceed with his December 2023 statement must be denied. A
22 review of the form indicates that it is incomplete on its face. This is because the statement that
23 Plaintiff has provided fails to indicate when it was generated. See ECF No. 11 at 3-4 (covered up
24 generation dates of Inmate Statement Report). Both pages of the trust statement fail to show
25 precisely when the report was generated. As a result, there is no way for the Court to determine
26 whether the document is, in fact, a six-month trust account statement which is required by law.

27 ¹ The Court's order was incorrectly labeled an order granting Plaintiff's request for an extension
28 of time to file a prison trust fund account statement. See generally ECF No. 10 at 1.

1 See 28 U.S.C. § 1915(a)(2). The fact that the document is accompanied by a random certification
2 of funds statement dated December 18, 2023 (see ECF No. 11 at 2), which states that Plaintiff has
3 no funds in his account, is not helpful. For these reasons, this motion will be denied.

4 III. MOTION FOR EXTENSION OF TIME TO FILE TRUST STATEMENT

5 In support of Plaintiff's motion for an extension of time to file his prison trust fund
6 account statement, Plaintiff states that he has a number of health problems. ECF No. 12 at 2. He
7 also states that in late February 2024, he was severely beaten by his cellmate. Id. As a result he
8 has several fractures and several broken bones,² and he has to have surgery. Id.

9 Given these facts, the motion will be granted. However, because Plaintiff has yet to
10 complete and file an application to proceed in forma pauperis, he will also be ordered for a
11 second time to do this as well. To this end, the Clerk of Court will be ordered to send Plaintiff a
12 copy of the Court's in forma pauperis application form. **Plaintiff is warned that failure to file**
13 **the documents by the end of the extension period may result in a recommendation that this**
14 **matter be dismissed.**

15 Accordingly, IT IS HEREBY ORDERED that:

- 16 1. The Clerk of Court shall send Plaintiff a copy of the Court's application to proceed in
17 forma pauperis for a prisoner;
- 18 2. Plaintiff's motion to proceed with his prison trust fund account statement dated
19 December 18, 2023 (ECF No. 11) is DENIED;
- 20 3. Plaintiff's motion for a thirty-day extension of time to file a six-month prison trust
21 fund account statement (ECF No. 12) is GRANTED, and
- 22 4. Within thirty days from the date of this order – **by April 19, 2024**, – Plaintiff shall file
23 both an application to proceed in forma pauperis and a six-month prison trust fund account
24 statement.

25 **Plaintiff is cautioned that absent exigent circumstances, no further requests for an**
26

27 ² Plaintiff's handwriting is very difficult to read. As a result, the Court is uncertain of precisely
28 where he has been injured. With future filings, Plaintiff is encouraged to consider either typing
them, or having someone else who has clearer handwriting write them out for him.

1 extension of time to file these documents will be granted.

2
3
4 IT IS SO ORDERED.

5 Dated: March 20, 2024

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE